

§ 95-243. Civil action.

(a) An employee who has been issued a right-to-sue letter or the Commissioner of Labor may commence a civil action in the superior court of the county where the violation occurred, where the complainant resides, or where the respondent resides or has his principal place of business.

(b) A civil action under this section shall be commenced by an employee within 90 days of the date upon which the right-to-sue letter was issued or by the Commissioner within 90 days of the date on which the Commissioner notifies the parties in writing that conciliation efforts have failed.

(c) The employee or the Commissioner may seek and the court may award any or all of the following types of relief:

- (1) An injunction to enjoin continued violation of this Article.
- (2) Reinstatement of the employee to the same position held before the retaliatory action or discrimination or to an equivalent position.
- (3) Reinstatement of full fringe benefits and seniority rights.
- (4) Compensation for lost wages, lost benefits, and other economic losses that were proximately caused by the retaliatory action or discrimination.

If in an action under this Article the court finds that the employee was injured by a willful violation of G.S. 95-241, the court shall treble the amount awarded under subdivision (4) of this subsection.

The court may award to the plaintiff and assess against the defendant the reasonable costs and expenses, including attorneys' fees, of the plaintiff in bringing an action pursuant to this section. If the court determines that the plaintiff's action is frivolous, it may award to the defendant and assess against the plaintiff the reasonable costs and expenses, including attorneys' fees, of the defendant in defending the action brought pursuant to this section.

(d) Parties to a civil action brought pursuant to this section shall have the right to a jury trial as provided under G.S. 1A-1, Rules of Civil Procedure.

(e) An employee may only bring an action under this section when he has been issued a right-to-sue letter by the Commissioner. (1991 (Reg. Sess., 1992), c. 1021, s. 1.)